

Mail Stop Interference
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Paper 10
Filed: 20 July 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RICHARD W. **ARNOLD**, WELDON BEARDAIN,
DANIEL W. PREVEDEL, DONALD E. RILEY
and LESTER L. WILSON
Junior Party
(Application 09/164,580),

v.

CURTIS NATHAN **POTTER**
Senior Party
(Patent 6,028,437).

Patent Interference No. 105,752 (SCM)
(Technology Center 2800)

Before SALLY GARDNER LANE, RICHARD E. SCHAFER and SALLY C.
MEDLEY, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

Judgment – Request for Adverse – Bd. R 127(b)

1 Senior party Potter has been given several opportunities to participate
2 in the interference. Potter has not filed any papers. On July 19, 2010, Board
3 personnel Sonja Desperth had a telephone conference call with counsel for
4 Potter, Jim Bushman, who represented that Potter's real party in interest, IP
5 Bewertungs AG, will not file any papers in the interference and that they
6 understand that failure to act will be construed by the Board as a request for
7 adverse judgment.

8 Potter's representation that it will not participate in the interference is
9 construed as an abandonment of the contest under Bd R. 127(b)(4), which in
10 turn is construed as a request for adverse judgment. The request is
11 GRANTED.

12 Accordingly, it is

13 **ORDERED** that judgment is entered against Potter for Count 1
14 (Paper 1 at 4);

15 **FURTHER ORDERED** that claims 1-11, corresponding to
16 Count 1, of Potter's involved Patent 6,028,437 are CANCELLED,
17 35 U.S.C. 135 (a);

18 **FURTHER ORDERED** that the parties shall note the
19 requirements of 35 U.S.C. § 135(c) and Bd. R. 205; and

20 **FURTHER ORDERED** that a copy of this judgment be
21 entered in the administrative records of the involved Arnold Application
22 09/164,580 and Potter Patent 6,028,437.

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